

February 18, 2010

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submitted via e-mail to hea@water.ca.gov

No Hard Copy Follows

Re: Comments on Draft Habitat Expansion Plan for Central Valley Spring-Run Chinook
Salmon and California Central Valley Steelhead

Dear Licensees of FERC Project Nos. 1962, 2100, 2105, and 2107:

KC LLC, a collaboration of Davis Hydro LLC and Sackheim Consulting, has reviewed the subject document, and offers the following comments for consideration by the Licensees for incorporation into the final Habitat Expansion Plan (HEP).

KC LLC understands that the Licensees expect to select and propose one of the two groups of recommended actions described in the HEP for approval by the National Marine Fisheries Service for implementation to comply with the Licensees responsibilities under the Habitat Expansion Agreement (HEA) that was created to complement licensed operations of the Oroville, Poe, Upper North Fork Feather River, and Rock Creek-Cresta hydropower projects, all located on the Feather River. It is understood that this program is anticipated to provide greater gains for the target species beyond project boundaries through identification, evaluation, selection, and implementation of the most promising and cost-effective actions.

KC LLC offers its comments in this letter in support of the Licensees reaching the following conclusions:

1. Both groups of recommended actions described in the HEP would contribute to reaching the Habitat Expansion Threshold (HET) specified in the HEA.
2. At least some of the Three-Creek Actions, based on the identified contribution to habitat expansion, could be selected to mitigate for any presently unmitigated impacts to fish species in the Sacramento River Basin, including those believed to be caused by the existence of the P-606 Kilarc Hydroelectric Development on Old Cow Creek. Consequently, given that there is now an adequate alternative available to maintain the Kilarc facilities in place, funds for the removal of the Kilarc facility would beneficially be allocated instead to implementation of the Three-Creek Actions.

KC LLC notes that the Three-Creek Actions identified in the HEA for Feather River impacts involve three totally discrete actions that may be implemented independently, while the Lower Yuba River Actions would involve an integrated program estimated to achieve a nearly 50% greater contribution to the HET. For these reasons, it would appear sensible to apply the available HEA funding to the integrated, more effective program, and seek alternative funding for the individual Three-Creek Actions.

KC LLC further notes that construction of the Segregation Weir proposed as part of the Lower Yuba River Actions would not occur unless and until there was evidence of its necessity and until its use was supported by the resource agencies and other stakeholders.

Funding earmarked for the Segregation Weir would not be utilized for some time, and could be allocated to other more beneficial programs, similar to the P-606 dismantling fund that is already being drawn down by a protracted and contentious hydropower license surrender process. KC LLC proposes that P-606 funds be utilized immediately for projects that have already been determined to be beneficial to fish and habitat. Additional funds can be generated by hydropower operations for on-going P-606 studies, and eventual demolition of P-606 facilities, should such be deemed warranted, can be funded from new sources as they emerge.

The HEA serves as off-site mitigation for the Feather River projects, where a variety of actions are considered eligible for inclusion in the HEP. KC LLC is striving for a similar approach to maximize habitat enhancement as the P-606 license is surrendered, specifying as in the Feather River HEA, “Actions identified in other venues, including unfunded actions, are acceptable for consideration, provided implementation results in a net expansion of habitat over any existing requirements and commitments.”

Whether or not the Lower Yuba River Actions are selected for implementation with the HEA funding, P-606 dismantling funds could be re-directed to unmet needs identified under the Three-Creek Actions.

Individually, the Big Chico Creek and Antelope Creek Actions represent relatively “shovel-ready,” cost-effective, and well supported actions, that would complement a number of restoration efforts that are ongoing by others in these watersheds. The combined estimated cost of \$3.7 million could be covered entirely by the P-606 dismantling funds, with immediate benefits.

The first element of the Three-Creek Actions provides partial funding for implementation of Phase 2 of an existing Restoration Project for which funding would still be inadequate, even including approximately \$12 million identified by California Department of Fish and Game (CDFG) that may be obligated if additional funds can be identified to complete Phase 2. Funding of the Three-Creek Actions under the HEA, including \$16.9 million for Battle Creek Habitat Expansion Action, would still fail to meet the total estimated cost estimate of \$46.3 million for Phase 2. Funds earmarked for dismantling of the P-606 Kilarc facilities, which benefit has yet to be specifically estimated, could serve to help to bridge the remaining gap and secure funding for Phase 2 in its entirety,

In summary, KC LLC supports the overall biological goal to expand habitat with the physical characteristics necessary to support spawning, rearing, and adult holding of spring-run Chinook salmon and steelhead in the Sacramento River Basin as a contribution to the conservation and recovery of these species. KC LLC recognizes that the cost of the projects identified exceeds the amount of funds available under the Feather

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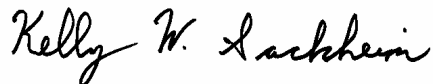
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River HEA. The projects are well-developed and justified, and could benefit from P-606 funding earmarked for the same goals, if the superior mitigation within the Sacramento River Basin were approved, notwithstanding that projects would be implemented outside the tributary Cow Creek Watershed. A comprehensive approach, directing all available funding to the best projects, will be most effective in achieving the goal of conservation and recovery of species.

Sincerely,



Kelly W. Sackheim, Principal

KC Hydro, a partnership of Davis Hydro LLC and Sackheim Consulting